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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 12 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Implementation of Section 26)
of the Cable Television)
Consumer Protection and)

PP Docket No. 93-21

the highest, or close to the highest, in the nation. Likewise, the Yankees are a club that traditionally has maintained high player payroll costs, demanding extremely substantial rights fees from broadcasters. It was against this backdrop that the Yankees in 1988 sold television rights to their games — 75 a year for two years, followed by 150 a year for 10 years — to MSG. This contract was unprecedented in terms of both its length and the rights fees payable, which amounted to nearly a half-billion dollars. It remains unrivaled in any local market, for any sport.

WPIX had the opportunity to analyze the Yankees/MSG deal because WPIX had a contractual right to match it. Unfortunately, the Yankees' offer was akin to an offer to finance the national debt: it was apparent that the economics of broadcast television could not support a deal of the financial magnitude of the MSG/Yankees deal. Television stations do not receive subscriber fees. They must depend on advertising revenues as the sole means of recouping costs that sports team owners generally require to be unconditionally guaranteed. The economics of the broadcast medium have not changed — over-the-air television still cannot match what a well-financed cable service can afford, because of cable's lucrative second revenue source.

Thus, it comes as no surprise that WPIX declined MSG's offers to sub-license parts of the Yankees/MSG package at a pro rata share of the premium price MSG had agreed to pay. MSG may view a sale at less than its cost as a "subsidy" (see MSG Comments at 13), but WPIX viewed the matter as asking a station

to indemnify it pro rata for a share of an exorbitant deal for a cable service, and an uneconomic deal for a broadcaster. WPIX's signal may reach more homes in the New York market than MSG, but WPIX remains dependent on advertising revenues, and only advertising revenues, to repay its program costs.

Under the agreement that has been in effect from 1991 through the current baseball season, WPIX has sub-licensed 50-55 Yankees games a year from MSG. WPIX produces the telecasts with its own crew and announcers. WPIX did not "grant" MSG the right to sell advertising in the games (see MSG Comments at 14); the games were offered to WPIX by MSG (which, after all, owns all Yankees television rights through the end of the century) on the condition that MSG would retain the advertising sales rights. The price paid by MSG, thus, compensates WPIX for the value of the advertising time WPIX would otherwise be able to sell in the valuable time periods occupied by Yankees telecasts. While the negotiated price is fixed, MSG does not explain the basis for its statement that the MSG/WPIX agreement "guarantees WPIX a sizeable profit for use of its broadcast time with no corresponding risk." The statement, first, is not true, given the value of the commercial time foregone by WPIX. Second, it is misleading. WPIX has offered to sell the advertising time in Yankees games and share the proceeds (and the risk) with MSG. MSG, which under its agreement with WPIX is able to sell WPIX's larger audience to advertisers along with its own cable audience for games carried exclusively on cable, without competition from WPIX, has declined WPIX's offer.

MSG's comments are also inaccurate as to the history predating the MSG/Yankees agreement. MSG states (Comments at 12) that in 1987-88, "WPIX dropped its slate of games [from 110] to 50." First, the telecast rights belong to the Yankees, which sold them, in 1982, to the SportsChannel service for 100 telecasts per year commencing in 1987, leaving only 40 for WPIX. The Yankees, WPIX and the cable service agreed in 1986 to modify these agreements to provide for 75 games for WPIX and 75 for SportsChannel, but disputes among the Yankees and SportsChannel developed and litigation ensued among all three parties. The litigation prevented WPIX from carrying the full complement of 75 games WPIX had agreed to carry and which the Yankees had sold WPIX. The litigation was settled, and in the third and fourth years of the Yankees/WPIX agreement, 1990 and 1991, WPIX was able to carry 75 Yankees games per season, something MSG's Comments fail to mention.

One other point deserves mention. MSG laments in its Comments (at 9-10) that since 1989, WPIX has been unwilling to purchase rights to telecast New York Rangers hockey games and New York Knickerbockers basketball games. (Both teams are owned by MSG's parent company. MSG Comments at 2.) WPIX is compelled to correct the misleading impression left in the record: MSG has offered WPIX the rights to telecast Rangers and Knicks games as a package, and WPIX has declined. MSG fails to mention that WPIX has repeatedly asserted its interest in carrying Knicks games but not Rangers games, and MSG has repeatedly declined. The picture

MSG paints of saving pro hockey and basketball from television oblivion in the New York market is, thus, incomplete at best.

WPIX shares MSG's hope and expectation (Comments at 14) that continuing negotiations will result in an agreement that will keep Yankees telecasts available on New York's Channel 11 for years into the future. Those television rights, however, belong to MSG, not to the Yankees, through 2000. The Commission should understand that television stations are incapable of matching the economics of a cable service that derives revenues from both viewers and advertisers.

CONCLUSION

Tribune hopes these comments provide insight to the Commission as to the economics of televised local sports in general, and the New York television market in particular. The effects of cable's dual revenue stream have been felt in New York, and they are reflected in the distribution of television rights there. Tribune submits these comments not to reargue the facts of past negotiations, but in the hope that the Commission

will be able to detect trends and consider an appropriate regulatory response in its preliminary report to Congress.

Respectfully submitted,

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Dated: April 12, 1993